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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/613,339   | 07/02/2003  | Keith Gilstrap       | KG0005              | 5097             |
| 36489  | 7590        | 05/19/2005           | EXAMINER            |                  |
| LEYENDECKER LEMIRE & DALEY, LLC<br>C/O PORTFOLIO IP P.O BOX 52057<br>MINNEAPOLIS, MN 55402 |             |                      | ELKINS, GARY E      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3727                |                  |

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/613,339

Applicant(s)

GILSTRAP ET AL

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 10-17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 and 18-25 is/are allowed.
- 6) ☒ Claim(s) 26-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20030702, 20040301</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 1-9 and 18-28 in the reply filed on 11 March 2005 is acknowledged. Claims 10-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Oberg et al.

Oberg et al discloses a wheel holding device including a framework 10 and a wheel attachment mechanism 34. The framework of Oberg et al is attached to a stem 22 of a bicycle and is considered capable of being attached to the handlebar stem or handlebar of a bicycle via the clamp 70 which is formed as a single piece clamping mechanism.

4. Claims 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by either Kullen or McMurtrey '758. Each of Kullen and McMurtrey discloses a framework (52; 60, 62, 70, 74, respectively) without a clamping mechanism that comprises interconnected moving parts and a wheel attachment mechanism (10;30, respectively) coupled to the framework and capable of securing a bicycle wheel to the device, i.e. the pack and basket of Kullen and McMurtrey, respectively are capable of carrying a bicycle wheel. No distinction is seen between the wheel

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attachment mechanism as claimed and that shown in either Kullen or McMurtrey as a result of the claimed intended use to carry a bicycle wheel.

***Allowable Subject Matter***

5. Claims 1-9 and 18-25 are allowed.

***Conclusion***

The remaining cited prior art is illustrative of the general state of the art.

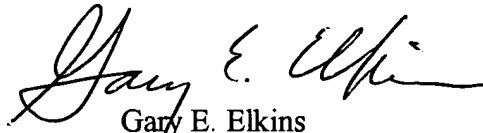
In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (703)872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday, Wednesday and Thursday.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Lee Young can be reached at (571)272-4549.

A handwritten signature in cursive script, reading "Gary E. Elkins".

Gary E. Elkins  
Primary Examiner  
Art Unit 3727

gee  
15 May 2005